



May 5, 2017

FCC
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re: In the matter of Request for Review and Waiver of Decision of Universal Service Administrator; Schools and Libraries Program, by the Secaucus Public Schools: CC Docket No. 02-6

To Whom it May Concern:

Pursuant to CFR §§ 54.719, 54.720, and 54.721, the Secaucus Public Schools ("Secaucus") hereby submits this Appeal of the Universal Service Administrative Company's determination to deny reimbursement for FRN 2625781 in connection with Invoice number 2470519. Alternatively, Secaucus requests a Waiver of the rule cited by USAC in its disposition letter dated March 6, 2017, which requires that invoices be "postmarked no later than 120 days after the last date to receive service, or 120 days after the date of the Form 486 Notification Letter, whichever is later."

More specifically, this Appeal/Waiver Request relates to the following applicant:

Appellant Name: Secaucus Public Schools
Billed Entity Number: 122772
Invoice Number: 2470519
Service Provider Name: TouchTone Communications, Inc. ("TouchTone")
Discount Amount: \$20,508.00

Secaucus submits this Appeal/Waiver Request in connection with a USAC denial letter dated November 14, 2016. The basis for the denial states that the "Invoice Received Date [11/10/2016] Later Than FCC Extension Date [07/27/2016]." Secaucus first appealed this decision to the Schools and Libraries Division ("SLD") of the Universal Service Fund. By letter dated March 6, 2017, the SLD denied Secaucus' appeal. For the reasons that follow, Secaucus contends that USAC's decision is

fundamentally flawed and respectfully requests that its appeal be granted or, alternatively, that it be granted a waiver in light of extenuating circumstances beyond its control that impeded its ability to timely submit a new invoice.

Statement of Relevant Facts

Secaucus filed its original FCC Form 472 referencing FRN 2625781 in August 2015 (**Exhibit A**). On August 25, 2015, Secaucus responded to an initial request for information and provided the requested materials. USAC approved that FCC Form 472 on or about August 30, 2015 and provided the invoice number 2229799 (**Exhibit B**).

Secaucus subsequently received a letter dated November 25, 2015, which stated that the FCC Form 472 at issue and associated invoices had been cancelled due to issues contacting TouchTone (**Exhibit C**). Under E-Rate Program rules in effect at that time, service providers were required to verify applicants' requests for discounts. Secaucus subsequently contacted the Help Desk, which instructed the District to file a new FCC Form 472 to request the same discount previously approved in August 2015. Secaucus did so in December 2015 (**Exhibit D**).

On January 5, 2016, the District's E-Rate consultant, CRN 16043594, received an e-mail correspondence from Carline Antione, Associate Manager/Invoicing Auditor, in which she identified herself as the person reviewing the new FCC Form 472 and requested additional back-up information and materials (**Exhibit E**).

Secaucus provided Ms. Antione with the information requested on January 5, 2016 (**Exhibit F**). After receiving no follow-up correspondence from Ms. Antione for approximately two weeks, Secaucus' E-Rate consultant sent an email to Ms. Antione on January 20, 2016 requesting an update (**Exhibit G**). On January 29, 2016, Ms. Antione responded by e-mail and stated, "All necessary documents were received and your application is being processed" (**Exhibit H**).

However, on March 23, 2016, Secaucus received a correspondence from USAC denying Secaucus' request for discounts, citing "incomplete documents for review" (**Exhibit I**). On or about May 18, 2016, Secaucus submitted its appeal of that denial (**Exhibit J**).

Secaucus did not receive USAC's written decision on that appeal until, after months of waiting on a disposition, Secaucus submitted a new FCC Form 472 on or about November 10, 2016 in connection with FRN 2625781. (**Exhibit K**). On November 14, 2016, USAC denied the District's invoice, citing the "Invoice Received Date [11/10/2016] Later Than FCC Extension Date [07/27/2016]" (**Exhibit L**).

Upon receiving the denial by email on November 14, 2016, the District's E-Rate consultant contacted the Help Desk to inquire. After calling the Help Desk to inquire on November 16, 2016, USAC sent an electronic copy of the appeal disposition to the undersigned. (Email and attachment annexed hereto as **Exhibit M**). The disposition correspondence is dated June 27, 2016. The letter states that the District's appeal had been approved and advises of a 30-day deadline to submit a new invoice. The new invoice deadline, therefore, was set as July 27, 2016.

On December 5, 2016, Secaucus filed an appeal of the November 2016 invoice denial (**Exhibit N**). In its appeal, Secaucus noted the extenuating circumstances that impeded a timely submission of the invoice in question. First, neither Secaucus nor its E-Rate consultant actually received USAC's disposition letter dated June 27, 2016. (**Affidavit of Vincent LaForgia, ¶6**). The initial appeal instructed USAC to address any and all related correspondence to E-Rate Consulting, Inc. at its office address. (**Exhibit J**). Unfortunately, the undersigned has experienced significant issues with its mail carrier since relocating to new office space in early 2015. (**Affidavit of Vincent LaForgia, ¶¶ 3, 4**). Despite repeated complaints to management, the USPS has done nothing to remedy the situation and mail delivery issues persist to this day. (**Affidavit of Vincent LaForgia, ¶5**). Mail addressed to the undersigned is routinely undelivered, delivered to neighboring addresses, or returned to sender with no explanation given. (**Affidavit of Vincent LaForgia, ¶4**).

That notwithstanding, even if Secaucus had received the disposition letter, it could not have timely filed a new invoice because of the new discount disbursement process implemented by USAC effective July 1, 2016. Under that new process, applicants are required to file an FCC Form 498 as a mandatory predicate to filing an FCC Form 472. In the absence of an approved and verified FCC Form 498, USAC would not process requests for discounts.

Though Secaucus certified its Form 498 on July 20, 2016, it did not receive a request for bank account verification documentation until August 29, 2016. (**Exhibit O**). After submitting the requisite documentation, Secaucus received notice that USAC had approved its Form 498 on August 31, 2016. (**Exhibit P**). Thus, it was not until that date, at the absolute earliest, that Secaucus could have filed a new FCC Form 472 for FRN 2625781. Moreover, having not received notice of the June 2016 appeal disposition, it could not reasonably have known of the need to request a further invoice deadline extension for FRN 2625781.

By letter dated March 6, 2017, USAC denied Secaucus' appeal, citing the following basis for its decision:

Invoices must be postmarked no later than 120 days after the last date to receive service, or 120 days after the date of the Form 486 Notification Letter, whichever is later. You did not demonstrate otherwise in your appeal. Therefore your appeal is denied.

(Exhibit Q). No further explanation is offered.

This Appeal/Waiver Request

The Wireline Competition Bureau employs a *de novo* standard of review when asked to review decisions issued by the Administrator. 47 CFR § 54.723. Section 54.724 instructs the Bureau to issue a written decision in response to requests for review of a USAC decision within ninety (90) days.

For the reasons set forth above, Secaucus hereby submits that it could not reasonably have met the July 27, 2016 submission deadline. Due to ongoing mail carrier issues, it did not receive notice of the disposition and, thus, was unaware of the new invoice deadline. Consequently, the District could not reasonably have known of the inevitable need to request a further invoice deadline extension.

Moreover, the delays attendant to the FCC Form 498 review processes rendered the July 27 submission deadline impracticable, as Secaucus did not receive USAC's request for bank account verification documents until August 29. As such, the circumstances indicate that Secaucus' request was erroneously denied, and the District respectfully reiterates its request for the discount in the amount \$20,508 in connection with FRN 2625781.

Secaucus further notes that its May 2016 appeal of USAC's initial denial was originally approved and, thus, USAC had previously determined that the District was ultimately entitled to the funds it now requests. The denial does not allege Secaucus violated a Commission rule. There is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to the core program requirements. Rather, the denial in the instant matter stems solely from USAC's rigid application of a procedural deadline. The Commission has previously granted appeals and waiver requests when such application fails to further the purposes of section 47.254(h) or serve the public interest in any meaningful way.ⁱ Furthermore, denial of this funding request inflicts undue hardship on the District by denying it over \$20,000 that could otherwise be used to defray the cost of Internet and/or other telecommunications services.

For all of the above reasons, Secaucus respectfully requests that the FCC granted its appeal or, alternatively, that it grant a waiver and instruct USAC to disburse the discount of \$20,508 in connection with FRN 2625781.

Please direct all inquiries concerning this Appeal/Waiver Request to the following:

Vincent LaForgia
E-Rate Consulting, Inc.
130 Valley Road, Suite B
Montclair, NJ 07042
973.200.4815. x101
vince@erateconsulting.com

Respectfully Submitted,



Vincent LaForgia

Enclosures:

ⁱ See, e.g., *Request for Review of the Decision of the Universal Service Administrator by the Bishop Perry Middle School et al.*, Order, File Nos. SLD-487170, et al., CC Docket No. 02-6 (2006); *Request for Review and Waiver of the Decision of the Universal Service Administrator by the Alaska Gateway School District Tok, et al.*, Order, File Nos. SLD-412028, et al., CC Docket No. 02-6 (2006)

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Requests for Waiver and Review)	
of Decision of the Universal Service)	
Administrator by)	
)	
Secaucus Public Schools)	File No. SLD-
)	
Schools and Libraries Universal Service)	
Support Mechanism)	CC Docket No. 02-6

AFFIDAVIT OF VINCENT LaFORGIA

State of New Jersey

County of Essex

PERSONALLY came before me, the undersigned notary, the within named VINCENT LaFORGIA, who is a resident of Essex County, State of New Jersey, and makes this his statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters and facts set forth are true and correct to the best of his knowledge:

1. I, Vincent LaForgia, who resides at 180 Hollywood Avenue, Fairfield, NJ 07004, being Forty (40) years of age, am the President of E-Rate Consulting, Inc., the organization which represents the Secaucus Public Schools in the above captioned matter.

2. I do hereby swear, under Oath, that the following facts and matters are true and correct to the best of my knowledge and do hereby affirm that the following statements are accurate.

3. My company, E-Rate Consulting, relocated its office space to 130 Valley Road, Suite B, in Montclair, NJ, 07042, in early 2015.

4. Since the outset, my company has experienced significant issues with mail delivery; specifically, mail addressed to my company is routinely delivered to the wrong address, returned to sender, or simply not delivered at all.

5. Despite repeated and numerous complaints to the local distribution center of the United States Postal Service, we continue to experience mail delivery issues to this day.

6. In connection with the Secaucus Public Schools appeal dated May 18, 2016, neither my office nor the applicant timely received a copy of USAC's appeal disposition letter dated June 27, 2016.

7. My office did not see a copy of the appeal disposition letter at issue until it was provided by USAC in response to a request by my office on November 16, 2016.

DATED this the 5th day of May, 2017

[Signature]
Signature of Affiant

SWORN to subscribed before me, this the 5th day of May, 2017

[Signature]
NOTARY PUBLIC

My Commission Expires:
Sept. 9, 2021

RACHEL MOTYL
NOTARY PUBLIC
STATE OF NEW JERSEY
ID # 50045547
MY COMMISSION EXPIRES SEPT. 9, 2021

